IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 567 of 2004 (S/S)

Dilshad Hussain
S/o late Sri Bazahat Hussain
R/o Mandi Parishad Ganna Samiti,
Khad Godown Gadarpur, P.O. Gadarpur,
District Udham Singh Nagar.

…… Petitioner

versus

State of Uttaranchal and others

…… **Respondents**

Mr. Sharad Sharma, learned counsel for the petitioner.
Mr. Gopal Narain, learned counsel for respondent No. 4.
Learned Standing Counsel for respondent Nos. 1 to 3.

Hon'ble Prafulla C. Pant, J.

Heard learned counsel for the parties.

2) By means of this petition, the petitioner has challenged the notice dated 19th May, 2004 (copy Annexure- 1 to the petition), whereby he has been noticed to retire at the age of 58 years.

3) Brief facts of the case are that the petitioner is posted as Secretary Grade- I with Cane Co-operative Development Society, Gadarpur, Udham Singh Nagar and his services are governed by U.P. Cane Co-operative Service Regulations, 1975. Regulation 47 thereof provides that the age of retirement of the employees of Cane Co-operative Societies shall be 58 years.

4) It is submitted on behalf of learned counsel for the petitioner that a similarly situated petitioner filed a writ petition No. 383 of 2003 and again by another petitioner a writ petition No. 950 of 2003 was filed. The writ petitions were decided on

25.09.2003 and 07.01.2004 respectively, whereby the said petitioners were allowed declaring that the employees of the Cane Co-operative Societies shall retire at the of 60 years. A Special Appeal No. 16 of 2004 appears to have been preferred by the Chairman of the District Cane Service Authority, Udham Singh Nagar / Assistant Cane Commissioner, Udham Singh Nagar before the Division Bench of this Court. The said appeal was disposed of vide judgment and order dated 9th February, 2005 whereby the view of the learned Single Judge was upheld. A certified copy of said judgment has been filed today by learned counsel for the petitioner before this Court. In said Special Appeal, the Government Order No. 9 / Sahakarita / 2003 dated 26th February, 2003 whereby the age of the employees of Co-operative Societies Banks and other Undertakings of the Co-operative Societies have been enhanced from 58 years to 60 years, have been interpreted to include employees of the Cane Co-operative Societies as well. It is further held in said case that Rule 47 of U.P. Cane Co-operative Service Regulations, 1975 accordingly stands amended.

5) In the Circumstances, this Court feels that the present petition deserves to be allowed on the same analogy and reasons as mentioned in the aforesaid judgment of 9th February, 2005 passed in Special Appeal No. 16 of 2004. The writ petition is accordingly allowed quashing the notice dated 19.05.2004 issued by respondent No. 3 noticing the petitioner to retire at the age of 58 years. In view of said Government Order, the petitioner shall retire at the age of 60 years. The writ petition stands disposed of. No order as to costs.

(Prafulla C. Pant, J.)

Dt. 17.02.2005
H.Negi